IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

Crl.MC.No. 2252 of 2007()

CC.635/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT, TALIPARAMBA

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PETITIONER: ACCUSED:

JOSEPH CHANDY, S/O.JOSEPH, AGED 58 YEARS
THOTUVELIL HOUSE, TALIPARAMBA P.O., KANNUR DIST.

BY ADV. SRI.R.SURENDRAN

RESPONDENTS: COMPLAINANT AND STATE:

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1. P.J.JOSEPH, S/O.JOSEPH, AGED 75 YEARS,
PONNAMPARA HOUSE, TABORE POST, TALIPARAMBA TALUK.

2. STATE OF KERALA REPRESENTED BY ITS
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, KOCHI-31.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2252 of 2007

Dated this the 13th day of July, 2007

O R D E R

Petitioner is the sole accused in C.C.No.635 of 2004 pending before the Judicial Magistrate of the First Class, Thaliparamba. Cognizance has been taken on the basis of a private complaint of offence punishable, inter alia, under Sections 409 and 477 A I.P.C.

2. According to the petitioner, he is absolutely innocent. He had no information about the pendency of the case. No notice or summons of the court was ever served on him. But reckoning the petitioner as an absconding accused, a warrant of arrest has been issued by the learned Magistrate against him.

3. According to the petitioner, he is willing to co-operate with the court for expeditious disposal of the case. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously.

4. The learned counsel for the petitioner further submits that, at any rate, the allegation raised against the petitioner is without any basis and the proceedings are hence liable to be quashed. I do not find any reason at this stage to entertain the said request to quash the proceedings. It is for the petitioner to appear before the learned Magistrate and raise his claim for discharge under Section 245(2)

Cr.P.C. If the allegations are groundless, certainly the learned Magistrate must pass appropriate orders under Section 245(2) Cr.P.C.

5. In the result, this Crl.M.C is, allowed in part. The following directions are issued under Section 482 Cr.P.C.

i) The warrant of arrest issued against the petitioner shall not be executed by the learned Magistrate till 06.08.07;

ii) The petitioner shall appear before the learned Magistrate on 06.08.07. The learned Magistrate shall consider his application for bail on merits, in accordance with law and expeditiously-on the date of surrender itself;

iii) The learned Magistrate shall thereafter expeditiously consider the prayer of the petitioner for premature termination of the proceedings by discharge under Section 245(2) Cr.P.C;

iv) Unnecessary insistence on personal appearance of the petitioner shall not be made and the petitioner shall be permitted to appear through counsel until the plea for discharge is considered and decided by the learned Magistrate.

(R.BASANT, JUDGE)

rtr/-